

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

KEVIN R. PATMORE,)	CAUSE NO. 1:22-CV-1194
)	
Plaintiff,)	
)	
v.)	
)	
BARNETT OUTDOORS, LLC)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Barnett Outdoors, LLC, (“Barnett”), by counsel, removes the above-captioned matter to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and in support, states as follows:

1. On or about May 3, 2022, Plaintiff Kevin R. Patmore filed the following lawsuit in the Spencer Circuit Court: Kevin R. Patmore v. Barnett Outdoors, LLC; Cause No. 74C01-2205-CT-000189 (“State Court Action”).

2. Defendant Barnett was served with a Summons and Complaint for the State Court Action on May 14, 2022. Barnett has attached to this Notice of Removal a true and accurate copy of the Complaint, Summons, Clerk’s Certificate of Mailing, and Certificate of Issuance of Summons and Complaint (Exhibit A). Barnett has not served an answer or responsive pleading in the State Court Action.

3. This Notice of Removal is filed within thirty days of receipt of the initial pleadings by Barnett, and within one year of the commencement of this action, as mandated by 28 U.S.C. § 1446(b). *See Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999). Accordingly, removal of this action is timely.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship and the damages sought exceed the sum of \$75,000 as demonstrated by the following:

a. Plaintiff, Kevin R. Patmore was, at the time of the incident giving rise to this litigation and is now, domiciled in Spencer County, Indiana. (Exhibit A, Plaintiff's Complaint, ¶ 1).

b. Defendant Barnett was, at the time of the commencement of this action and is at the present time, a Florida incorporated limited liability company without a parent corporation and is not owned in any part by any publicly held corporation. The sole member of Barnett is Surge Outdoors LLC, a Delaware corporation. In turn, Surge Outdoors LLC is owned 52% by Ryan Bushice, who is domiciled and a citizen of Louisiana, and 48% by DarkHorse Outdoors, LLC, a Delaware corporation. DarkHorse Outdoors, LLC, is owned 50% by David Barnett, who is domiciled and a citizen of Florida, and 50% by Ken Wong, who is domiciled in and a citizen of Hong Kong, China. By virtue of being incorporated in and having its sole member domiciled and citizens in said states, Barnett was, at the time of the commencement of this action and is now, domiciled in and a citizen of the States of Florida, Louisiana, Delaware, Florida, and Hong Kong and was not then and is not now domiciled in nor a citizen of the State of Indiana.

c. Although Plaintiff did not demand a specific amount of damages in his Complaint, upon information and belief, Plaintiff is claiming damages in excess of \$75,000, exclusive of interest and costs. Plaintiff is claiming that he suffered the near complete amputation of his left thumb after a crossbow manufactured by Defendant allegedly fired without an arrow fully loaded in the trigger mechanism. Upon review of

Indiana jury verdicts for cases involving the amputation of fingers, there have been multiple awards in excess of \$75,000. The totality of Plaintiff's damages, combined with anticipated damages for pain and suffering, disfigurement and other claimed aspects of his claim, satisfies the jurisdictional amount in dispute requirements for removal to this Court.

5. This lawsuit is, therefore, a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and is one which may be removed to this Court under 28 U.S.C. §§ 1441 and 1446. Further, removal to this judicial district and division is proper under 28 U.S.C. § 1441(a), as this district and division embrace Spencer County, Indiana where this lawsuit is pending.

6. This Notice is accompanied by copies of all process, pleadings, and orders served upon or by Barnett in this lawsuit. *See Exhibit A.*

7. Promptly after it is filed with this Court, Barnett will serve this Notice on Plaintiff and file a copy of this Notice with the Clerk of the Spencer Circuit Court for the State of Indiana in accordance with 28 U.S.C. § 1446(d).

8. By removing this case from the Spencer Circuit Court, Barnett does not waive any defense available to it.

9. By removing this case from the Spencer Circuit Court, Barnett does not admit any of Plaintiff's allegations in the Complaint.

WHEREFORE, Defendant Barnett Outdoors, LLC, hereby gives notice that the State Court Action filed under Cause No. 74C01-2205-CT-000189, now pending in the Spencer Circuit Court for the State of Indiana, is removed to this Court for all further proceedings.

Respectfully submitted,

FROST BROWN TODD LLC

By: /s/ Kevin C. Schiferl

Kevin C. Schiferl

BreAnna S. Davis

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2022, a copy of the foregoing document was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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/s/ Kevin C. Schiferl

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